

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,)	
)	
Plaintiff,)	3:06cv40
)	Electronic Filing
v.)	
)	Judge Cercone
TONY BARAN and MR. SIVEC,)	Magistrate Judge Caiazza
)	
Defendants.)	

MEMORANDUM ORDER

The Plaintiff's complaint was received by the Clerk of Court on February 21, 2006, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on March 3, 2006, recommended that the Motion to Proceed in forma pauperis be denied in accordance with the provisions of 28 U.S.C. § 1915(g) and that this action be dismissed because of the Plaintiff's failure to pay the filing fee. It was also recommended that the Plaintiff be afforded the right to reopen this case by paying the full \$250.00 filing fee within sixty (60) days following the entry of the Memorandum Order.

The parties were allowed ten days from the date of service to file objections. Service was made on the Plaintiff by First Class United States Mail delivered to the State Correctional Institution at Cresson, Cresson, Pennsylvania, where he is

incarcerated. No objections have been filed. After review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 10th day of May, 2006,

IT IS HEREBY ORDERED that the Motion to Proceed in forma pauperis is **DENIED** in accordance with the provisions of 28 U.S.C. § 1915 (g) and that this action is **DISMISSED** because of the Plaintiff's failure to pay the filing fee. The Plaintiff may reopen this case by paying the full \$250.00 filing fee within sixty (60) days following the entry of this Memorandum Order.

The Report and Recommendation of Magistrate Judge Caiazza (Document No. 2), dated March 3, 2006, is adopted as the opinion of the court.



David Stewart Cercone
United States District Judge

cc: Honorable Francis X. Caiazza
United States Magistrate Judge

John R. Jae, BQ-3291
SCI Cresson
P.O. Box A
Cresson, PA 16699